

REMARKS

Claims 20 through 33 and 49 through 58 were presented for consideration and claims 20 through 33 and 49 through 58 remain pending upon entry of the instant response and request for reconsideration.

Applicants note with appreciation that claims 28 and 29 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 21 through 25, 30, 31, and 49 through 54 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,765,914 to Jain et al. (hereinafter "Jain") in view of U.S. Patent No. 6,717,944 to Bryden et al. (hereinafter "Bryden"). Claims 26, 27, 32, 33, and 55 through 58 stand rejected over Jain in view of Bryden in view of U.S. Patent No. 6,944,159 to Fotedar et al. (hereinafter "Fotedar").

35 U.S.C. §103(c) provides "(1) Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person." MPEP 2146.

Bryden and the application have subject matter developed by another person.

35 U.S.C. §102(e) provides a person shall be entitled to a patent unless "the invention was described in - (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international

application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language." MPEP 2131.

Bryden was filed November 10, 1999 and issued April 6, 2004. Bryden provides that there was no publication date prior to the April 6, 2004 issue date. The application was filed January 22, 2002 and has a priority date of December 7, 2001. Thus, Bryden qualifies as prior art only under 35 U.S.C. §102(e).

The application and Bryden were, at the time the invention of the application was made, owned by Nortel Networks Limited.

Thus, Bryden shall not preclude patentability under 35 U.S.C. §103(c).

The Action concedes that Jain does not disclose all of the features of claims 20 and 49 and relies on combination with Bryden. Each of the rejections provided in the Action rely on Bryden. Thus, Applicants respectfully submit that claim 20, and claims 21 through 33 depending therefrom, and 49, and claims 50 through 58 depending therefrom, are patentable over the cited art.

Reconsideration and withdrawal of the rejections under 35 U.S.C. §103(a) are respectfully requested.

In view of the foregoing, Applicants respectfully submit that the present application is in condition for allowance. Such action is solicited. In the alternative, Applicants submit that the instant response places the present application in better condition for appeal.

Respectfully submitted,

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